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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,193	08/09/2001	Alan A. Winder	41482/253466	4292

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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/925,193

Applicant(s)

WINDER ET AL.

Examiner

Jaworski Francis J.

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2/7Amdt; 10/11/6 IDS.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 and 47-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56 - 65 is/are allowed.
- 6) ☒ Claim(s) 44, 45 and 51-55 is/are rejected.
- 7) ☒ Claim(s) 1-43, 47--50, 66-71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/11/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 1 – 4, 12 – 31, 39 – 43 and 66 - 67 are again objected to because of the following informalities: the relationship of the 'interface' to the 'human tissue in 'vivo' and/or the 'acoustically coupling (step)' should be clarified since it is subject to diverse interpretations if the interface is construed as unrelated to tissue.

[Alternately stated, the Examiner is again grouping under the clarification request all claims which do not state an 'interface' relationship to skin/soft tissue/bone yet which 'set the bar/standard'. Correction is required.]

With respect to comments provided with the amendment, the term 'interface' when accorded its broadest reasonable meaning does not impute 'tissue' to that meaning in preference to or distinction from any other material and to this extent the claims listed are unclear.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 44 – 45 and 51 – 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention since as amended the meaning of interface in broadest terms is unclear since the relationship of the interface to mode conversion and/or propagation to tissue is unclear. Additionally it is unclear how or if the critical angle relates to either.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44 – 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebhardt et al (EP0425765) wherein figs. 1 and 3 show a mode converter having a top and parallel bottom surface capable of receiving a transducer therebetween, there being no recitation that the surface has anything to do with transmission thereinto or across, and with argument that the trapezoidal cross-section of surroundment 12 would constitute a housing into which the transducer has been placed, the specimen side surfaces 9, 17 or 29, 37 including a second transducer along with the first transducer, and positioned at a critical angle such that mode conversion across a flaw within the region of maximum sensitivity will occur. 777

Allowable Subject Matter

Claims 1 – 43, 66 – 67 are objected to because of the clarity issue regarding 'interface' but would be allowable if language supporting the definition provided in the amendment that an interface includes tissue as at least one medium for purposes of the method and that structure is adapted to operate across such an interface.

Claims ~~48~~ – 50 and 68 - 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

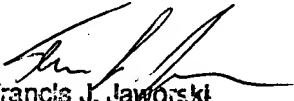
Claims 56 – 65 are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj
042307


Francis J. Jaworski
Primary Examiner